IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

Bail Appl..No. 7286 of 2007()

CRIME 236/07 OF ELATHUR POLICE STATION

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: PETITIONER/1ST ACCUSED

JISHAD BABU, S/O. ALI KOYA, AGED 27,
MALIYEKKAL HOUSE, MAKKADA AMSOM DESOM,
CHERUKULAM, KOZHIKODE DISTRICT.

BY ADV. SRI.K.A.SALIL NARAYANAN

RESPONDENTS:

STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.V.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 03/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7286 OF 2007 C

Dated this the 3rd day of December, 2007

O R D E R

Application for anticipatory bail. The petitioner is the 1st accused. He is the husband of the de facto complainant. The marriage between the spouses took place on 12.3.06. Matrimonial cruelty of the culpable variety has been alleged against the petitioner by the de facto complainant. She was allegedly assaulted and she was, hence, constrained to go to the medical officer. She was admitted in the hospital. He statement was recorded. Crime was accordingly registered. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is innocent. There is strain in the matrimonial relationship and that is prompting the de facto complainant to make reckless, exaggerated and fanciful allegations against the petitioner. The petitioner may be granted anticipatory bail to save him from the undeserved trauma of arrest and detention, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor does not oppose the

application. The learned Public Prosecutor has drawn my attention to the wound certificate issued. No external injuries are shown to have been suffered by the victim.

4. I am satisfied, in the facts and circumstances of this case that the petitioner can be granted anticipatory bail. In coming to this conclusion I take note of the fact that arrest and detention of the petitioner is likely to mar all possibilities of harmonious reconciliation of the matrimonial tie.

5. In the result, this petition is allowed. Following directions are issued under Section 438 Cr.P.C in favour of the petitioner.

i) Petitioner shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 10.12.2007. The petitioner shall be released on regular bail on condition that he executes a bond for Rs.25,000/-(Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

ii) The petitioner shall make himself available for interrogation before the investigating officer between 10 a.m and 3 p.m on 11.12.2007 and 12.12.2007 and thereafter on all

Mondays and Fridays between 10 a.m and 12 noon for a period of two months. Subsequently the petitioner shall so appear as and when directed by the investigating officer in writing to do so.

(iv) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with them in accordance with law, as if these directions were not issued at all.

(v) If the petitioner were arrested prior to 10.12.2007, he shall be released from custody on his executing a bond for Rs.25,000/- (Rupees twenty five thousand only) without any sureties, undertaking to appear before the learned Magistrate on 10.12.2007.

(R.BASANT, JUDGE)

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